

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:10-cr-00069-MR**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 FLOYD LEE BAKER,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER comes before the Court upon Defendant’s “Second Motion,” which the Defendant identifies as a motion for summary judgment [Doc. 31].¹

By way of the present motion, the Defendant moves for summary judgment in his “lawsuit case” against the Government based on his claim that the Government and the Court discriminated against the Defendant at his sentencing by failing to accommodate his hearing disability. [Doc. 31].

There is currently no action, either by or against the Defendant, pending in this Court. The Defendant was sentenced in this criminal case

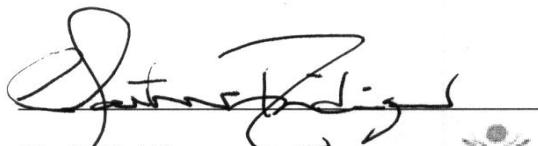
¹ The record does not reflect that there was a “first” motion for summary judgment filed.

on September 21, 2011 [Doc. 15], and his appeal of that sentence was dismissed on February 2, 2012 [Doc. 26]. While the Defendant did initiate a Bivens² action against the Court and his former counsel, that action was dismissed with prejudice on September 11, 2013. [No. 1:13-cv-00226-FDW, Doc. 7]. Defendant's motion for summary judgment is therefore improper and must be denied and dismissed as frivolous.

IT IS, THEREFORE, ORDERED that Defendant's "Second Motion" is **DENIED** and **DISMISSED**.

IT IS SO ORDERED.

Signed: December 2, 2013


Martin Reidinger
United States District Judge



² Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).